

Message

From: Amoroso, Cathy [Amoroso.Cathy@epa.gov]
Sent: 2/1/2021 6:07:11 PM
To: Jenkins, Brandi [Jenkins.Brandi@epa.gov]; Brock, Martha [Brock.Martha@epa.gov]; Chaffins, Randall [Chaffins.Randall@epa.gov]
CC: Palmer, Leif [Palmer.Leif@epa.gov]; Adams, Glenn [Adams.Glenn@epa.gov]; Buxbaum, David [Buxbaum.David@epa.gov]; Johnson, MaryC [Johnson.MaryC@epa.gov]
Subject: RE: BRANDI: Press inquiry- Knoxville News Sentinel
Attachments: Oak Ridge Reservation - January 14 2021_ FINAL.docx

Thanks Brandi.

The HQ transition paper for Oak Ridge covers the topic of the EMDF and the waster discharge matter. That may be a good place for them to start. I don't have the final OLEM version, but I've attached the most recent version (OSRTI version) that I have.

Cathy Amoroso, Chief
Restoration & DOE Coordination Section
Superfund & Emergency Management Division
U.S. EPA, Region 4
404-295-6758

From: Jenkins, Brandi <Jenkins.Brandi@epa.gov>
Sent: Monday, February 1, 2021 12:57 PM
To: Brock, Martha <Brock.Martha@epa.gov>; Chaffins, Randall <Chaffins.Randall@epa.gov>
Cc: Palmer, Leif <Palmer.Leif@epa.gov>; Adams, Glenn <Adams.Glenn@epa.gov>; Amoroso, Cathy <Amoroso.Cathy@epa.gov>; Buxbaum, David <Buxbaum.David@epa.gov>; Johnson, MaryC <Johnson.MaryC@epa.gov>
Subject: RE: BRANDI: Press inquiry- Knoxville News Sentinel

For clarification, OGC, OW and OLEM have been looped in on this response and are taking the lead. They would like to know if the region has any background information. We may receive additional guidance from them but that was the word on Friday.

- Brandi

From: Brock, Martha <Brock.Martha@epa.gov>
Sent: Monday, February 1, 2021 12:41 PM
To: Chaffins, Randall <Chaffins.Randall@epa.gov>; Jenkins, Brandi <Jenkins.Brandi@epa.gov>
Cc: Palmer, Leif <Palmer.Leif@epa.gov>; Adams, Glenn <Adams.Glenn@epa.gov>; Amoroso, Cathy <Amoroso.Cathy@epa.gov>; Buxbaum, David <Buxbaum.David@epa.gov>; Johnson, MaryC <Johnson.MaryC@epa.gov>
Subject: RE: BRANDI: Press inquiry- Knoxville News Sentinel

Just pasting the reporter's statement and query for convenience:

Hello EPA Press Office,

I have some questions about a decision made by former EPA head Wheeler in the waning hours of 2020.

If my reading of the attached document is correct, Wheeler decided that the EPA has authority over radionucleotide pollution released into the local waterways by old atomic contamination under CERCLA.

However, in subsequent parts of the document Wheeler left open the ability of DOE to set the standard for how clean the site should be using site specific criteria regardless of Clean Water Act provisions or local Tennessee river designations. In addition he found that anti-degradation standards of our state don't apply and in footnote 42 suggests that the DOE can adjust how polluted the rivers around the site become based on whether they choose to redesignate land use in the site as something else.

This reads to me like Wheeler has asserted EPA primacy over CERCLA matters in the Oak Ridge Reserve superfund site but left open the door for the polluter on site, the Department of Energy, to set the baseline for how the cleanup effort is judged and where it is judged effectively cutting out state regulators.

My questions are as follows.

- 1) With the new administration does this decision still stand?*
- 2) If so is my interpretation of this decision correct?*
- 3) If it isn't please explain why Wheeler's decision is not license for the DOE to define the terms of the cleanup.*

Thanks!

Vincent

All – For your consideration. This query is timely, because I am very curious what we are “doing” about the last Administrator’s Decision now that we have a new Administration.

You may have our past observations about the draft decision before it was issued, but there were a number of changes in the final Decision that staff counsel never saw. Of the substantive changes reflected in the final version as well as changes made by the AA to the immediately preceding draft, I want to be clear that I do not agree with them.

Decision is inconsistent with CERCLA and the NCP: As an agency, what are we “doing” about this wrong-headed Decision? Several parts of the Decision are inconsistent with CERCLA or the NCP; and any decision document that is written consistent with that Decision is likely subject to challenge under the standard of whether the ROD is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law. The Decision could conceivably have a large, negative impact on not only how EPA Region 4 conducts its oversight of remedial action at Oak Ridge Reservation, but potentially any site in the Superfund program where EPA is making a determination whether legal requirements are *relevant and appropriate* to the remedy.

Timing of correction: DOE should be in the process of revising the Focused Feasibility Study. The FFS comprises an important part of the Administrative Record that supports the remedy in the landfill ROD(s). So I am also concerned about the backlash that EPA will face if we do not correct this wrong-headed Decision **sooner rather than later**. I would not want Region 4 to have to “back-pedal” later, after DOE submits a revised Focused Feasibility Study and EPA reviews it, when we could have done it now, and where we may have to go back and correct it at the time we brief the new Administrator on the legal risk of his signing a three quarters of a billion dollar ROD.

From: Chaffins, Randall <Chaffins.Randall@epa.gov>

Sent: Monday, February 1, 2021 12:04 PM

To: Jenkins, Brandi <Jenkins.Brandi@epa.gov>

Cc: Palmer, Leif <Palmer.Leif@epa.gov>; Adams, Glenn <Adams.Glenn@epa.gov>; Amoroso, Cathy <Amoroso.Cathy@epa.gov>; Brock, Martha <Brock.Martha@epa.gov>; Buxbaum, David <Buxbaum.David@epa.gov>

Subject: RE: BRANDI: Press inquiry- Knoxville News Sentinel

We will also need to loop in FFRRO and FFEO on this, as well.

From: Chaffins, Randall
Sent: Monday, February 1, 2021 11:58 AM
To: Jenkins, Brandi <Jenkins.Brandi@epa.gov>
Cc: Palmer, Leif <Palmer.Leif@epa.gov>; Glenn Adams <Adams.Glenn@epa.gov>; Amoroso, Cathy <Amoroso.Cathy@epa.gov>; Martha Brock <Brock.Martha@epa.gov>; Buxbaum, David <Buxbaum.David@epa.gov>
Subject: RE: BRANDI: Press inquiry- Knoxville News Sentinel

Thanks Brandi, this most likely is referring to the Administrator's decision on the rad dispute. I'm copying SEMD and ORC for background and developing answering the reporter's questions.

From: Jenkins, Brandi <Jenkins.Brandi@epa.gov>
Sent: Monday, February 1, 2021 11:50 AM
To: Chaffins, Randall <Chaffins.Randall@epa.gov>
Subject: FW: BRANDI: Press inquiry- Knoxville News Sentinel

Randall – please see the below email thread regarding Oak Ridge. Do you all have any background on the radionucleotide decision?

- Brandi

From: Labbe, Ken <Labbe.Ken@epa.gov>
Sent: Friday, January 29, 2021 4:14 PM
To: Daguillard, Robert <Daguillard.Robert@epa.gov>; Jenkins, Brandi <Jenkins.Brandi@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: BRANDI: Press inquiry- Knoxville News Sentinel

OLEM is checking to see if they have anything to offer as well.

From: Daguillard, Robert <Daguillard.Robert@epa.gov>
Sent: Friday, January 29, 2021 4:12 PM
To: Jenkins, Brandi <Jenkins.Brandi@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Labbe, Ken <Labbe.Ken@epa.gov>
Subject: RE: BRANDI: Press inquiry- Knoxville News Sentinel

OK, thanks. FWIW, the reporter isn't on any pressing deadline. He and I will check back in a week.

Best, R.

Robert Daguillard
Public Affairs Officer
U.S. Environmental Protection Agency
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From: Jenkins, Brandi <Jenkins.Brandi@epa.gov>
Sent: Friday, January 29, 2021 4:11 PM
To: Daguillard, Robert <Daguillard.Robert@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Labbe, Ken <Labbe.Ken@epa.gov>
Subject: RE: BRANDI: Press inquiry- Knoxville News Sentinel

This is an issue the region is actively involved in as this is one of our current DOE Superfund sites. I will see if they have a briefing paper on the water issues.

- Brandi

From: Daguiard, Robert <Daguiard.Robert@epa.gov>
Sent: Friday, January 29, 2021 3:08 PM
To: Jenkins, Brandi <Jenkins.Brandi@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Labbe, Ken <Labbe.Ken@epa.gov>
Subject: BRANDI: Press inquiry- Knoxville News Sentinel

Good afternoon Brandi,

At this time, I believe HQ OW, OLEM and, probably, OGC, ought to handle this inquiry. However, is there any background you want to share on Oak Ridge water issues? I'm happy to discuss.

Thanks in advance, R.

Robert Daguiard
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From: Gabrielle, Vincent <Vincent.Gabrielle@knoxnews.com>
Sent: Friday, January 29, 2021 3:01 PM
To: Daguiard, Robert <Daguiard.Robert@epa.gov>; Press <Press@epa.gov>
Cc: Jenkins, Brandi <Jenkins.Brandi@epa.gov>
Subject: RE: Press inquiry- Knoxville News Sentinel

Hi there Robert,

There is no planned publication date. This is a watchdog effort. I have been watching the developments in the Oak Ridge Reserve since I was brought on here. This hasn't been reflected in my coverage due to COVID-19.

It's also worth mentioning that while this process has been going on for ten years the DOE has issued a call for proposals for the possible landfill (EMWF) on the reserve. This occurred just prior to the release of Wheeler's decision. I expect that more developments to occur in the spring.

Given that that contract will be worth roughly 8.5 billion dollars every year and renewable in perpetuity and that a previous landfill built in the same area immediately began leaking waste into local creeks I think it deserves my attention regardless of whether or not an actual contract is forthcoming in the near future.

Thanks

Vincent

Vincent Damian Gabrielle
Science, Technology and Culture Reporter

Pronouns: He/him

Contact

Mobile: 865-206-4069; Office: 865-342-6432

Twitter: [@vincentdgabriel](https://twitter.com/vincentdgabriel)

From: Daguillard, Robert <Daguillard.Robert@epa.gov>
Sent: Friday, January 29, 2021 2:49 PM
To: Gabrielle, Vincent <Vincent.Gabrielle@knoxnews.com>; Press <Press@epa.gov>
Cc: Jenkins, Brandi <Jenkins.Brandi@epa.gov>
Subject: RE: Press inquiry- Knoxville News Sentinel

Good afternoon Vincent,

Thanks for reaching out. We're happy to work on your inquiry, although we have to say it'll probably require input from two or three separate EPA offices. Would you mind telling me about your deadline, planned publication date – and what prompted your immediate interest in this topic?

Thanks in advance, R.

Robert Daguillard
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+1 (202) 360-0476 (m)

From: Gabrielle, Vincent <Vincent.Gabrielle@knoxnews.com>
Sent: Friday, January 29, 2021 1:07 PM
To: Press <Press@epa.gov>
Subject: Press inquiry- Knoxville News Sentinel

Hello EPA Press Office,

I have some questions about a decision made by former EPA head Wheeler in the waning hours of 2020.

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Thanks!

Vincent

Vincent Damian Gabrielle
Science, Technology and Culture Reporter

Pronouns: He/him

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